



PROPOSED RULE MAKING

CR-102 (June 2004)

(Implements RCW 34.05.320)

Do **NOT** use for expedited rule making

Agency: Insurance Commissioner

☒ **Preproposal Statement of Inquiry** was filed as WSR 02-15-172 ; or

☐ **Expedited Rule Making--Proposed notice** was filed as WSR _____; or

☐ **Proposal is exempt under RCW 34.05.310(4).**

☒ **Original Notice**

☐ **Supplemental Notice to WSR** _____

☐ **Continuance of WSR** _____

Title of rule and other identifying information: Rental car insurance limited agent license

Insurance Commissioner Matter No. R 2002-05

Hearing location(s):

Insurance Commissioner's Office
Room TR 120
5000 Capitol Blvd.
Tumwater, WA 98501

Date: August 30, 2004 Time: 10:00 a.m.

Submit written comments to:

Name: Kacy Scott
Address: PO Box 40255, Olympia, WA 98504-0255
phone (360) 725-7041
fax (360) 586-3109
e-mail Kacys@oic.wa.gov
by August 27, 2004

Assistance for persons with disabilities: Contact
Lori Villaflores by August 27, 2004

Date of intended adoption: September 9, 2004

(Note: This is **NOT** the effective date)

TDD (360) 586-0241

Purpose of the proposal and its anticipated effects, including any changes in existing rules:

Chapter 48.115 RCW was enacted during the 2002 legislative session. This law gave the Commissioner the authority to establish the process and fees for licensure of rental car companies and their agents. The law requires licensees to pay fees necessary to defray the cost of administering the law.

Reasons supporting proposal: These proposed regulations establish licensure requirements and set fees necessary to defray the cost of administering the law. These proposed regulations will ensure that the employees that offer these products to the public are trained in the products they are selling.

Statutory authority for adoption: RCW 48.02.060, 48.30.010, and 48.115

Statute being implemented: Chapter 48.115 RCW

Is rule necessary because of a:

Federal Law? ☐ Yes ☒ No
Federal Court Decision? ☐ Yes ☒ No
State Court Decision? ☐ Yes ☒ No
If yes, CITATION:

DATE

July 21, 2004

NAME (type or print)

Mike Kreidler

SIGNATURE

TITLE

Insurance Commissioner

CODE REVISER USE ONLY

Information input by Agency

**CODE REVISER'S OFFICE
STATE OF WASHINGTON
FILED**

JUL 21 2004

TIME 10:51 **AM**

WSR 04-15-156

(COMPLETE REVERSE SIDE)

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:

These proposed regulations establish the process and fees for licensure of rental car companies and their agents. These proposed regulations will ensure that the employees that offer these products to the public are trained in the products they are selling.

Name of proponent: (person or organization) Mike Kreidler, Insurance Commissioner

☐ Private
☐ Public
☒ Governmental

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting.....	Jon Hedegard	PO Box 40255 Olympia, WA 98504-0255	360-725-7039
Implementation....	Georgia Cooper	PO Box 40255 Olympia, WA 98504-0255	360-725-7145
Enforcement.....	Scott Jarvis	PO Box 40255 Olympia, WA 98504-0255	360-725-7262

Has a small business economic impact statement been prepared under chapter 19.85 RCW?

☐ Yes. Attach copy of small business economic impact statement.

A copy of the statement may be obtained by contacting:

Name:

Address:

phone () _____

fax () _____

e-mail _____

☒ No. Explain why no statement was prepared.

Analysis provided in CBA showed that the economic impact of these proposed regulations is not significant for rental car companies in general or for small business companies in particular. The proposed regulations protect both consumers and car rental companies.

Is a cost-benefit analysis required under RCW 34.05.328?

☒ Yes A preliminary cost-benefit analysis may be obtained by contacting:

Name: Kacy Scott

Address: PO Box 40255, Olympia, WA 98504-0255

phone (360) 725-7041

fax (360) 586-3109

e-mail Kacys@oic.wa.gov

☐ No: Please explain:

Chapter 284-17B WAC

RENTAL CAR AGENT

NEW SECTION

WAC 284-17B-005 What definitions are important throughout the chapter? Definitions:

(1) **"Endorsee"** means an unlicensed employee or agent of a rental car agent who meets the requirements of this chapter.

(2) **"Person"** means an individual or a business entity.

(3) **"Rental agreement"** means any written master, corporate, group, or individual agreement setting forth the terms and conditions governing the use of a rental car rented or leased by a rental car company.

(4) **"Rental car"** means any motor vehicle that is intended to be rented or leased for a period of thirty consecutive days or less by a driver who is not required to possess a commercial driver's license to operate the motor vehicle and the motor vehicle is either of the following:

(a) A private passenger motor vehicle, including a passenger van, recreational vehicle, minivan, or sports utility vehicle; or

(b) A cargo vehicle, including a cargo van, pickup truck, or truck with a gross vehicle weight of less than twenty-six thousand pounds.

(5) **"Rental car agent"** means any rental car company that is licensed to offer, sell, or solicit rental car insurance under this chapter.

(6) **"Rental car company"** means any person in the business of renting rental cars to the public, including a franchisee.

(7) **"Rental car insurance"** means insurance offered, sold, or solicited in connection with and incidental to the rental of rental cars, whether at the rental office or by preselection of coverage in master, corporate, group, or individual agreements that is:

(a) Nontransferable;

(b) Applicable only to the rental car that is the subject of the rental agreement;

(c) Limited to the following kinds of insurance:

(i) Personal accident insurance for renters and other rental car occupants, for accidental death or dismemberment, and for medical expenses resulting from an accident that occurs with the rental car during the rental period;

(ii) Liability insurance, including uninsured or underinsured motorist coverage, whether offered separately or in combination with other liability insurance, that provides protection to the renters and to other authorized drivers of a rental car for liability arising from the operation of the rental car during the rental period;

(iii) Personal effects insurance that provides coverage to renters and other vehicle occupants for loss of, or damage to, personal effects in the rental car during the rental period; and

(iv) Roadside assistance and emergency sickness protection insurance.

(8) **"Renter"** means any person who obtains the use of a vehicle from a rental car company under the terms of a rental agreement.

NEW SECTION

WAC 284-17B-010 Who needs to be licensed as a car rental agent? Any person in the business of renting cars to the public and offering rental car insurance must either:

- (1) Be licensed under chapter 284-17 WAC; or
- (2) Comply with chapter 48.115 RCW and this chapter.

NEW SECTION

WAC 284-17B-015 How can I apply for a rental car agent license? Forms and instructions may be obtained by either calling the office of insurance commissioner or downloading them from the website: www.insurance.wa.gov/. To apply for a rental car agent license, the following must be submitted:

(1) A rental car agent application signed by the applicant, an officer of the applicant, or owner of the rental car-company;

(2) A copy of articles of incorporation;

(3) A certificate of good standing from the secretary of state;

(4) Underwriting insurer appointment form, INS 18;

(5) The insurer's certification form as described in RCW 48.115.015 (2)(a) signed by the appointing authority;

(6) A list of all locations in Washington identifying the manager or direct supervisor at each;

(7) A list of the names of all endorsees to its rental car agent license;

(8) Certification by the rental car company that the listed endorsees have met the training requirements in RCW 48.115.020(4) and are authorized to offer, sell, and solicit insurance in connection with the rental of vehicles as described in RCW 48.115.005(7).

(9) The training and education program and materials as described in RCW 48.115.020(4) and all brochures and other written materials provided to renters as described in RCW 48.115.025; and

(10) Initial fees:

a. License fee for two years:	\$130 for business with under 50 employees
	\$375 for business with 50 or more employees
b. Appointment fee:	\$20 for each underwriting insurer
c. Location fee:	\$35 for each additional location. Location fees are not required for locations where there are no endorsees due to waiver or approved alternate arrangement under WAC 284-17B-080

NEW SECTION

WAC 284-17B-020 Do I have continuing reporting and recordkeeping requirements? (1) Yes. The list of names of all endorsees to the rental car agent license must be updated quarterly on a calendar year basis and submitted at the time of license renewal. The rental car company must retain each list for a period of three years from submission. At any time, endorsee lists must be provided to the commissioner upon request.

(2) The agent must maintain records of each transaction which allows it to identify the endorsee for one year.

NEW SECTION

WAC 284-17B-025 How is a rental car agent license renewed?

Rental agent licenses are issued for a period of two years. A renewal notice will be mailed to each licensed rental car agent every other year from the date of issuance. The renewal notice must be submitted with the rental car company certification form and applicable fee:

<i>Date Fees are Received</i>	<i>Fee Every Other Year</i>
	50 OR MORE EMPLOYEES
Prior to or on renewal date:	\$375 with \$35 per each additional location
1-30 days late	\$562.50 with \$35 per each additional location
31-60 days late	\$749.75 with \$35 per each additional location
61 or more days late	New license is required
	UNDER 50 EMPLOYEES
Prior to or on renewal date:	\$130 with \$35 per additional location
1-30 days late	\$195 with \$35 per each additional location
31-60 days late	\$260 with \$35 per each additional location
61 or more days late	New license is required

NEW SECTION

WAC 284-17B-030 Can the rental car agent endorse someone to act on behalf of the agent? Yes. An endorsee may act on behalf of the rental car agent. The endorsee may act only in the offer, sale, or solicitation of rental car insurance. A rental car agent is responsible for, and must supervise, all actions of its endorsees related to the offering, sale, or solicitation of rental car insurance.

NEW SECTION

WAC 284-17B-035 Who can be a rental car agent endorsee? An employee or agent of a rental car agent may be an endorsee under the authority of the rental car agent license, if all of the following conditions are met:

- (1) The employee or agent is eighteen years of age or older;
- (2) The employee or agent is a trustworthy person and has not committed any act set forth in RCW 48.17.530;
- (3) The employee or agent has completed a training and education program; and
- (4) The employee or agent has a current employment relationship with the rental car company.

NEW SECTION

WAC 284-17B-040 Is the rental car agent required to provide training and education to its endorsees? Yes. The rental car agent must provide training and education to its endorsees as described in RCW 48.115.020(4).

NEW SECTION

WAC 284-17B-045 What activities are prohibited for rental car agents? A rental car agent must comply with RCW 48.115.030.

NEW SECTION

WAC 284-17B-050 How should a rental car agent account for premiums? A rental car agent is required to treat money collected from renters purchasing rental car insurance as funds received in a fiduciary capacity, unless:

(1) The charges for rental car insurance coverage are itemized and related to a rental transaction; and

(2) The insurer has consented in writing that premiums do not need to be segregated from funds received by the rental car agent. This written statement must be signed by an officer of the insurer.

NEW SECTION

WAC 284-17B-055 What information must be included in the rental agreement? (1) The rental agreement must be in writing and include the following:

(a) Acknowledgment of the receipt of the brochures and written materials;

(b) Evidence of the rental car insurance coverage stated on the face of the rental agreement;

(c) A separately itemized list of all costs;

(d) A statement disclosing that when the rental car insurance is not the primary source of coverage the renter's personal insurance will serve as the primary source of coverage; and

(e) A statement limiting the period of the rental agreement to thirty consecutive days or less.

(2) For transactions conducted by electronic means, the rental car agent must comply with the requirements of subsection (1) of this section. Acknowledgment of the receipt of all documents

required by this section may be made by either written or digital signature.

NEW SECTION

WAC 284-17B-060 What information must be included in the written material or brochure? The brochure and written material must clearly, conspicuously, and in plain language:

(1) Summarize, clearly and correctly, the material terms, exclusions, limitations, and conditions of coverage offered to renters, including the identity of the insurer;

(2) Describe the process for filing a claim including a toll-free telephone number to report a claim;

(3) Provide the rental car agent's name, address, telephone number, and license number, and the commissioner's consumer hotline number;

(4) Inform the renter that the rental car insurance may duplicate coverage provided by the renter's personal automobile insurance policy, homeowners' insurance policy, or by another source of coverage;

(5) Inform the renter that the purchase of the rental car insurance is not required to rent a car from the rental car agent; and

(6) Inform the renter that the rental car agent and the endorsees are not qualified to evaluate the adequacy of the renter's existing insurance coverages.

(7) The policy or certificate of coverage and rates must be filed and approved by OIC as outlined in RCW 48.18.100 and 48.19.040.

(8) If the written material includes a certificate of coverage or policy, the form number and edition, if applicable, of the approved certificate of coverage or policy must be identified on the printed material. The insurer must certify that the policy or certificate of coverage and the rates have been approved and that the wording on the written material is exactly as approved.

NEW SECTION

WAC 284-17B-065 What information must be available to prospective renters? Approved written material must be readily available to prospective renters at every location where rental car insurance is offered.

NEW SECTION

WAC 284-17B-070 Should changes to brochures or written materials be submitted to the commissioner? Yes, all changes to brochures and written materials must be submitted to and approved by the commissioner prior to use.

NEW SECTION

WAC 284-17B-075 Does the commissioner have authority to suspend, fine, or revoke my license or refuse to license me? Yes, the commissioner may fine, suspend, revoke, or refuse to issue a license to a rental car agent or applicant. See RCW 48.115.035.

NEW SECTION

WAC 284-17B-080 Can the commissioner waive requirements or allow alternative mechanisms for the reporting or training and education requirements? Yes. The commissioner may waive or accept alternate arrangements for some or all of the reporting requirements in WAC 284-17B-020 and the endorsee training and education requirements in WAC 284-17B-040 when the endorsees receive no compensation in any form based on the offering or sale of rental car insurance. A request for an alternative arrangement or waiver must be in writing. The request must detail why the reporting or training and education requirement is unduly burdensome due to cost or the nature of the business structure. The request must detail how consumers will be adequately protected under the proposed alternate arrangement or the proposed waiver. A new request must be filed at the time of license renewal.